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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,144	11/15/1999	JEFFREY G. MARX	2333.0056C	2590
7590	10/22/2003		EXAMINER	CHATTOPADHYAY, URMI
ROBERT H. EPSTEIN EPSTEIN & GERKEN 1901 RESEARCH BLVD., SUITE 340 ROCKVILLE, MD 20850			ART UNIT	PAPER NUMBER
			3738	
			DATE MAILED: 10/22/2003	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/440,144	MARX ET AL.	
	Examiner Urmi Chattopadhyay	Art Unit 3738	
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --			
Period for Reply <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status <p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>30 January 2003</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL. 2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
Disposition of Claims <p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-22, 24, 26, 37 and 39-45</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input checked="" type="checkbox"/> Claim(s) <u>1-11, 13-22, 24, 26 and 42-44</u> is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>37, 39-41 and 45</u> is/are rejected.</p> <p>7)<input checked="" type="checkbox"/> Claim(s) <u>12</u> is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
Application Papers <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input checked="" type="checkbox"/> The drawing(s) filed on <u>15 November 1999</u> is/are: a)<input checked="" type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
Priority under 35 U.S.C. §§ 119 and 120 <p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input checked="" type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
Attachment(s) <p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u>.</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p>			

DETAILED ACTION

Response to Amendment

1. The amendment filed 1/30/03 has been entered as Paper No. 15. Changes to the title, abstract and specification have been approved by the examiner. Claims 23, 25, 27-36 and 38 have been canceled and new claims 42-45 have been added. The claims currently pending and being considered for further examination are claims 1-22, 24, 26, 37 and 39-45.

Claim Objections

2. Claim 12 is objected to because step (f) of "drying the additional coating between the steps of contacting" is missing. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 37, 39-41 and 45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 37 has been amended to include a possible combination of an inner sintered *composite* material, an outer sintered *composite* material and an intermediate sintered

composite material having a composition which is a composite of the inner and outer sintered composite materials. There is no support in the specification for an inner composite, outer composite and an intermediate composite of the two. Page 10, lines 28-32 discloses a pure zirconia inner material, a calcium phosphate containing outer material, and intervening layers that contain a fraction of both materials. Example 1 on pages 13-14 discloses a zirconia inner material, a 50% by volume zirconia and hydroxyapatite outer material, and a 25% by volume zirconia and hydroxyapatite intermediate material. Example 4 and pages 20-21 discloses a zirconia reticulated substrate, a zirconia inner material, a hydroxyapatite outer material, and a ZHA-25 intermediate material. None of these examples, or any other example in the specification disclose a composite inner material, a composite outer material, and a composite of the two as an intermediate material.

Allowable Subject Matter

4. Claims 1-22, 24, 26, and 42-44 are allowed.

Conclusion

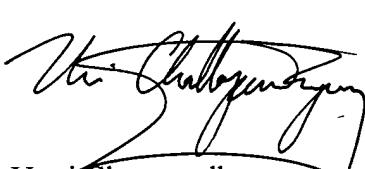
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmī Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 872-9306. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmī Chattopadhyay

Art Unit 3738

October 8, 2003



DA
David J. Isabella
Primary Examiner